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HOUSE BILL 7038 By
Brown

SENATE BILL 48 of the First Extraordinary Session
By Crutchfield

AN ACT to enact the "Fair Tax Reform Act of 1999" and to amend
Tennessee Code Annotated, Title 9; Title 45; Title 48;
Title 56; Title 57; Title 61; Title 62; Title 67 and Title 68.

WHEREAS, there exists a need to reform the tax laws of the state to provide an equitable and less regressive means of taxation that will produce adequate and reliable sources of revenue; and

WHEREAS, the Attorney General has opined that Article 2, Section 28 of the Constitution of Tennessee does not prohibit the General Assembly from enacting an ad valorem property or privilege tax based upon the income of an individual; and

WHEREAS, the Attorney General has further opined that it is within the inherent power of the General Assembly to impose such tax; and

WHEREAS, it is not the intention of the General Assembly to limit the designation of the tax levied by this act, but it is intended that the tax imposed be construed to be a privilege tax on the privileges of engaging in a business, profession, occupation, trade, employment, or endeavor, of investing or depositing money or capital, of selling one's labor or property, of engaging in a lease or rental, or of otherwise applying one's talents, skills, efforts, resources, or property for personal gain or advantage; or that the tax be construed as a tax on income as a species of intangible personal property; or that the tax be construed as a tax on or measured by income within the inherent authority of the General Assembly; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Fair Tax Reform Act of 1999".

SECTION 2. Tennessee Code Annotated, Section 67-4-804(a), is amended in subdivision (1) by deleting the semicolon ";" and substituting instead a period "." and adding the following language:

A taxpayer does not have "business earnings" if it is engaged exclusively in the buying, selling, or holding of securities on its own behalf and not as a broker, and its gains or losses from the sale or exchange of such securities are treated as gains or losses from the sale or exchange of capital assets as defined in section 1221 of the Internal Revenue Code of 1986, as amended. This subdivision expresses the legislative intent to implement and clarify the distinctions between business and nonbusiness earnings, as found in the Uniform Division of Income for Tax Purposes Act, as generally interpreted by states adopting the act;

SECTION 3. Tennessee Code Annotated, Section 67-4-804(a), is further amended by deleting subdivision (5) in its entirety and substituting instead the following:

(5) For purposes of the payroll factor of the statutory apportionment formula used by a taxpayer doing business both within and without Tennessee, and for purposes of adjustments to net earnings under § 67-4-805, "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services, and applies to any compensation arrangement, including whether paid directly or paid indirectly by invoice pursuant to a staff leasing arrangement with a staff leasing company or staff leasing group;

SECTION 4. Tennessee Code Annotated, Section 67-4-804(a)(7) is amended by deleting the subdivision from the beginning of the subdivision through the end of subitem (A); by redesignating subsequent subdivisions accordingly and by substituting instead the following:

(7) "Doing business in Tennessee" or "doing business within this state"

means any activity purposefully engaged in, within Tennessee, by any person, with the object of gain, benefit or advantage, consistent with the intent of the general assembly to subject such persons to the Tennessee franchise and excise taxes to the extent permitted by the United States Constitution and the Constitution of Tennessee; provided, that any such person shall not be considered to be "doing business in Tennessee" or "doing business within this state" for purposes of this part and part 9 of this chapter solely because of any one of the following activities:

(A) Ownership of a limited partnership interest when the activities of such owner are limited as follows:

(i) The limited partner's only business activity in Tennessee is the holding of a limited partnership interest in a partnership located in or doing business in Tennessee; and

(ii) The limited partner has no right to exercise any power, management or control over the partnership, except such powers or capacities outlined in § 61-2-302 that limited partners may exercise without participating in the management or control of the partnership, and the limited partner, in fact, exercises no such power, management or control over the partnership.

SECTION 5. Tennessee Code Annotated, Section 67-4-804(a), is amended by deleting subdivision (8) in its entirety and substituting instead the following:

(8) "Financial institution" means a holding company, any regulated financial corporation, a subsidiary of a holding company or regulated financial corporation, or any other person that is carrying on the business of a financial institution. However, "financial institution" does not include insurance companies subject to tax under §§ 56-4-201 - 56-4-214;

SECTION 6. Tennessee Code Annotated, Section 67-4-804(a)(11), is amended by deleting subdivision (B) in its entirety and by substituting instead the following:

(B) The requirement of owning and managing ten (10) or more hospitals shall be met if on an aggregate basis ten (10) or more hospitals are owned and managed, including all hospitals owned and managed by members of the same controlled group, and including all hospitals owned and managed by any partnership or limited liability company included in the controlled group. The requirement of performing health care services for ten (10) or more hospitals shall be met if on an aggregate basis health care services are performed for ten (10) or more hospitals, including all hospitals owned and managed by members of the same controlled group, and including all hospitals owned and managed by any partnership or limited liability company included in the controlled group;

SECTION 7. Tennessee Code Annotated, Section 67-4-804(a), is amended by adding the following as new subdivisions to be appropriately designated:

() "Not-for-profit" means any person included under sections 401(a), 501(c), and 501(d) of the Internal Revenue Code;

() "Person" or "taxpayer" means every natural person, corporation, subchapter S corporation, limited liability company, limited liability partnership, cooperative, joint stock association, business trust, regulated investment company, real estate investment trust, state-chartered or national bank, state or federally chartered savings and loan association, and any other entity or organization engaged in business. However, "person" or "taxpayer" does not include a proprietorship, general partnership or limited partnership.

() "Staff leasing arrangement" shall have the same definition as is set forth in § 62-43-103(a)(9);

() “Staff leasing company” shall have the same definition as is provided in § 62-43-103(a)(10); provided that, as used in this part, a staff leasing company must be licensed as a staff leasing company by the commissioner of the department of commerce and insurance pursuant to the provisions of § 62-43-108; and provided further, that a staff leasing company does not include “captive leasing companies” as defined in § 62-43-120;

() “Staff leasing group” shall have the same definition as is provided in § 62-43-103(a)(11); provided that, as used in this part, a staff leasing company must be licensed as a staff leasing group by the commissioner of commerce and insurance pursuant to the provisions of § 62-43-108; and provided further, that a staff leasing group does not include “captive leasing companies” as defined in § 62-43-120;

SECTION 8. Tennessee Code Annotated, Section 67-4-804(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) It is the intent of the general assembly to tax persons which are subject to Tennessee franchise and excise taxes to the extent permitted under the state's constitutional power to tax. The foregoing provisions implement and clarify the distinctions between business and nonbusiness earnings, as found in the Uniform Division of Income for Tax Purposes Act, as generally interpreted by states adopting the act.

SECTION 9. Tennessee Code Annotated, Section 67-4-805, is amended by deleting the section in its entirety and substituting instead the following:

(a)(1) For a corporation, limited liability company treated as a corporation for federal purposes, or any other taxpayer required to file a federal income tax return on a federal form 1120 or any variation thereof, except for a corporation electing S corporation status under sections 1361-1363 of the internal revenue code, or a unitary business as is defined in § 67-4-804(a)(19), “net earnings” or “net loss” is defined as

federal taxable income or loss before the operating loss deduction and special deductions provided for in sections 241-247 and 249 of the internal revenue code, and as adjusted by subsection (b) of this section.

(2) For a corporation electing subchapter S corporation status under sections 1361-1363 of the internal revenue code and filing a federal tax return for a subchapter S corporation (form 1120S or any variation thereof) with the internal revenue service, “net earnings” or “net loss” is defined as ordinary income determined under the applicable provisions of the internal revenue code, increased or decreased by items of income or expense specifically allocated to shareholders under the provisions of section 1366 of the internal revenue code, and as adjusted by subsection (b) of this section.

(3) For a unitary business, as is defined in § 67-4-804(a)(19), “net earnings” or “net loss” is defined as the combined net earnings or net loss as defined in subsection (a)(1) of this section for all members of the unitary group with all dividends, receipts and expenses resulting from transactions between members of the unitary group excluded when computing combined net earnings, and subject to the adjustments in subsection (b) on a combined basis. Financial institutions that form a unitary business shall file a combined return and pay tax on all operations of the unitary business. This return shall include the net earnings or net losses of all members of the unitary group even if some of the members would not otherwise be subject to taxation under this part.

(4) In the case of a taxpayer required to file a federal partnership return (form 1065 or any variation thereof) for federal purposes, “net earnings” or “net loss” is defined as an amount equal to: (A) the amount of ordinary income or loss determined under the applicable provisions of the internal revenue code, increased or decreased by items of income or expense specifically allocated to partners under the provisions of sections 701-761 of the internal revenue code, including but not limited to guaranteed payments to partners; less: (B) the amount subject to self-employment taxes paid to each partner

or member, but not in excess of seventy-two thousand dollars (\$72,000) for any one partner or member, provided, however, this amount shall not create or increase any net loss; (C) as adjusted by subsection (b) of this section.

(5) In the case of a trust, estate, or any other person doing business in Tennessee and not covered in subdivisions 1 through 5 above, “net earnings” or “net loss” is defined as taxable income or loss determined under applicable provisions of the internal revenue code, excluding any net operating loss deduction or special deductions similar to those provided for in sections 241-247 and 249 of the internal revenue code, as adjusted by subsection (b) of this section.

(b) (1) There shall be added to a taxpayer’s net earnings or net losses:

(A) Except in the case of financial institutions and insurance companies, an amount equal to the sum of compensation paid to employees which exceeds, for any one employee, seventy-two thousand dollars (\$72,000) per tax year. Any amount added under this subpart (A) shall not be reduced by net losses or carryovers thereof determined under subsection (a);

(B) Excise tax imposed by this state to the extent deducted in determining federal taxable income;

(C) Interest income from obligations defined in 26 U.S.C. § 103(a), reduced by allowable amortization including any interest expense disallowed for federal purposes pursuant to 26 U.S.C. §§ 265 and 291;

(D) Any deduction made pursuant to 26 U.S.C. §§ 611-617 to the extent the deduction when added with similar deductions in prior years exceeds the cost of the property;

(E) Any capital loss carrybacks or carryovers, arising in the course of a trade of business and deducted pursuant to 26 U.S.C. § 1212(a); and

(F) Any expense or depreciation, permitted as a deduction in computing federal taxable income solely as a result of lease characterizations permitted under § 168 of the Economic Recovery Tax Act of 1981, which would not have been permitted in the absence of such act; it being the legislative intent that excise tax revenue not be reduced due to lease characterizations made for the purpose of transferring investment tax credits and depreciation allowances from one business entity to another.

(2) There shall be subtracted from the net earnings and losses:

(A) Dividends earned by a parent corporation from a subsidiary corporation where such parent owns eighty percent (80%) or more of the stock of the subsidiary;

(B) Any amount included in federal taxable income but not taxable under the laws of this state;

(C) (i) In the case of entities subject to the excise tax under prior law, any net operating loss incurred for fiscal years ending on or after January 15, 1984, and in the case of all other taxpayers, any net operating loss incurred for fiscal years ending on or after July 1, 1999; "net operating loss" being defined as the excess of allowable deductions over total income allocable to this state for the year of the loss, and which may be carried over and allowed in succeeding tax years until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than fifteen (15) years after the taxable year in which the net operating loss occurs. For fiscal years ending on or after July 15, 1990, in the case of a unitary business, as defined in § 67-4-804(a)(19), the net operating loss incurred in the current year shall be determined on a combined basis as specified in subdivision (a)(3) and, for tax years ending prior to July 15, 1990, any net operating loss incurred by a member

of the unitary group which has been apportioned to Tennessee in a year prior to filing a combined return shall be allowed to the unitary group in succeeding tax years until fully utilized, but in no case more than seven (7) years after the taxable year in which the net operating loss occurs;

(ii) There shall be added to the net loss as determined for excise tax purposes, all nonbusiness earnings, all interest, dividends excluded from net earnings pursuant to this section and any other income excluded from net earnings pursuant to this section;

(D) A portion of the gain or loss of the sale or other disposition of property having a higher basis for Tennessee excise tax purposes than federal income tax purposes measured by the difference in the Tennessee basis and the federal basis;

(E) Any capital losses incurred during the fiscal year, arising in the course of a trade or business, and not deductible under 26 U.S.C. § 1211(a);

(F) Any expense, other than income taxes, not deducted in determining federal taxable income for which a credit against the federal income tax is allowable;

(G) Any amount included in federal taxable income solely as a result of lease characterizations permitted under the Economic Recovery Tax Act of 1981, § 168, which would not have been permitted in the absence of such act;

(H) Any amount of depreciation or other expense which the taxpayer could have deducted in computing federal taxable income had it not made the election to enter into a lease transaction permitted under the Economic Recovery Tax Act of 1981, § 168, which would not have been permitted in the absence of such act; and

(l) An amount equal to the difference, if any, between the reserve for bad debts allowed under 26 U.S.C. §§ 585 and 593, as such section existed on December 31, 1986, and such reserve as it may have been modified subsequently.

SECTION 10. Tennessee Code Annotated, Section 67-4-806, is amended by deleting subsections (a), (b) and (c) in their entirety and by substituting instead the following:

(a)(1) Doing business in Tennessee by any taxpayer is hereby declared to be a taxable privilege. The excise tax imposed by this act is a tax on merchants, peddlers, and privileges as authorized by Article II, Section 28 of the Tennessee Constitution. The tax is an accrued tax and is imposed for the exercise of the specified privilege during the period that coincides with the tax year covered by the return required.

(2) All persons, except those having not-for-profit status, doing business in Tennessee shall, without exception other than as provided herein, pay to the commissioner of revenue annually, in addition to all other taxes, an excise tax equal to six percent (6%) of their net earnings for the next preceding fiscal year for business done in this state.

(b) Every such person, now or hereafter doing business within this state shall, as a recompense for the protection of its local activities and as compensation for the benefits it receives from doing business in Tennessee, pay the tax imposed by this part.

(c) The tax imposed by this part shall apply to every taxpayer whose business is being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction and shall continue to accrue until such time as, in the case of an entity, such entity has been actually and legally dissolved or withdrawn from this state.

SECTION 11. Tennessee Code Annotated, Section 67-4-808, is amended by deleting subdivision (6) in its entirety and substituting instead the following:

(6) A hospital company filing a franchise/excise tax return on a combined basis as described in § 67-4-812, together with all members of its combined group filing with it, shall be allowed as a further credit against the combined annual franchise/excise tax imposed on the group remaining after application of the credit allowed under subdivision (5) an amount equal to four percent (4%) of the cost of medical supplies and medical equipment used by or placed in service by the members of the controlled group in this state during the tax year; provided, that the aggregate amount of the credit allowed to a taxpayer under subdivision (5), together with the credit allowed to a taxpayer under this subsection, shall not exceed nine million dollars (\$9,000,000) in any one (1) tax year. A corporation or other entity shall be deemed to have used or placed in service medical supplies and medical equipment used or placed in service by a partnership or limited liability company of which it is a partner or member if such corporation or entity is a member of the same controlled group, as defined in § 267(f)(1), Internal Revenue Code of 1986, as amended. The amount of the cost of such medical supplies and medical equipment which is attributed to and deemed to have been used or placed in service by such corporation or other entity shall be equal to the pro rata portion of the cost of medical supplies and medical equipment used or placed in service by the partnership or limited liability company in the tax year. Such pro rata portion shall be determined based upon the corporation's or other entity's percentage of the profits and losses of such partnership or limited liability company during such tax year. As used in this subdivision, "medical equipment" has the same meaning as "major medical equipment" as defined in § 68-11-102(10), but without the limitation therein as to the cost thereof, and "medical supplies" means all apparatus, consumable products, appliances, and other tangible personal property, except drugs and medicines, used in provision of patient health care services, including all recordkeeping and documentation in connection with such services.

SECTION 12. Tennessee Code Annotated, Section 67-4-809, is amended by adding a new subsection (c) as follows:

(c) Nonbusiness sales shall not be included in the numerator or denominator of any apportionment formula.

SECTION 13. Tennessee Code Annotated, Section 67-4-811, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) Except as may otherwise be provided in this part, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor and the denominator of which is four (4).

SECTION 14. Tennessee Code Annotated, Section 67-4-811, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. For this purpose property shall not include a taxpayer's share of any specific property of a limited liability company in which such taxpayer has a membership interest.

SECTION 15. Tennessee Code Annotated, Section 67-4-811(e), is amended by deleting the subsection in its entirety and substituting instead the following:

(e) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period. For this purpose compensation shall not include a taxpayer's share of any specific compensation of a limited liability company in which such taxpayer has a membership interest.

SECTION 16. Tennessee Code Annotated, Section 67-4-811(g), is amended by deleting the subsection in its entirety and substituting instead the following:

(g) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For this purpose total sales shall not include a taxpayer's share of any specific sales of a limited liability company in which such taxpayer has a membership interest.

SECTION 17. Tennessee Code Annotated, Section 67-4-811, is amended by adding a new subsection (j) as follows:

(j) Notwithstanding any provision of law other than §67-4-812 to the contrary, any person doing business in Tennessee, who licenses the use of patents, trademarks, trade names, copyrights, or know-how, or other intellectual property to another person in Tennessee, and who is paid royalties or other income based on the sale of products or other activity in Tennessee by the licensee, shall source such income to Tennessee for purposes of its apportionment formula sales factor.

SECTION 18. Tennessee Code Annotated, Section 67-4-812, is amended by deleting subsections (a), (b), (c) and (d) and by substituting instead the following:

(a) If the tax computation, allocation or apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, or the taxpayer's net earnings, the taxpayer may petition for, or the department of revenue through its delegates may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one (1) or more of the formula factors;
- (3) The inclusion of one (1) or more additional apportionment formula factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable computation, allocation and apportionment of the taxpayer's net earnings or losses that fairly represents the extent of the business entity's activities in Tennessee.

(b) If any factors are excluded from or added to the statutory apportionment formula, an appropriate change shall be made in the number used as the denominator of the fraction.

(c) (1) In any case of two or more persons, organizations, trades or businesses (whether or not incorporated and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner through delegates may distribute, apportion, or allocate income, deductions, credits, or allowances between or among such persons, organizations, trades or businesses, if the commissioner determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes, excessive use or abuse of exemptions, or to clearly to reflect the income of such persons, organizations, trades or businesses. In addition, the commissioner through delegates may require combined reports utilizing a common apportionment formula covering members of an affiliated group of corporations.

(2) The commissioner may disregard any entity created or transaction made which has no business purpose or is created or made with the primary purpose of evading either the federal income tax or the excise tax.

(3) For purposes of this subsection, "affiliated group" has the same meaning attributed to it by section 1504 of the internal revenue code.

(d) When another method of tax computation, allocation or apportionment as set out above has once been established, it shall continue in effect until changed or discontinued by the department. In the event that the department changes or discontinues a taxpayer's method of tax computation, allocation or apportionment, reasonable notice shall be given to the taxpayer affected and any such change or

discontinuation in the method of tax computation, allocation or apportionment shall apply prospectively to the first and subsequent tax periods beginning on or after the date of such notice.

SECTION 19. Tennessee Code Annotated, Section 67-4-814(3), is amended by deleting the word "corporation" and substituting the word "taxpayer".

SECTION 20. Tennessee Code Annotated, Section 67-4-817, is amended by deleting the word "corporation's" and substituting instead the word "taxpayer's", deleting each occurrence of the word "corporation" and substituting instead the word "taxpayer", and by deleting the word "corporations" and substituting instead the word "taxpayers".

SECTION 21. Tennessee Code Annotated, Section 67-4-818, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commissioner is empowered and it is the commissioner's duty to collect the tax, together with penalty and interest, levied hereunder from any officer, stockholder, partner, member, principal, or employee of a taxpayer that is out of business or has dissolved, liquidated, otherwise terminated at a time when it has refused or failed to pay the excise tax levied under this part, and any such officer, stockholder, partner, member, principal, or employee has received property belonging to the taxpayer, but such collection shall be limited to the value of the property received.

(b) The commissioner is empowered to certify to the secretary of state the name of any corporation which fails or refuses to file any statement or return or to pay any fee or tax herein required; however, no certification shall be issued until such statement, return, or tax has remained delinquent for a period of ninety (90) days.

(c) At the time of such certification to the secretary of state, the commissioner shall give notice to the corporation of the action taken. Thereupon, the charter of such corporation or its domestication in Tennessee shall stand as automatically dissolved or

revoked and the secretary of state shall note such revocation or dissolution upon the secretary of state's records.

(d) At any time after the date of revocation or dissolution, such charter may be reinstated upon the filing of all reports and the payment of all fees, taxes, penalty and interest due the state; provided, that the title has not been taken by another corporation, and that proof is furnished sufficient to the commissioner that no third party will be injured by such reinstatement, unless such proof has been furnished sufficient to the secretary of state upon requesting reinstatement.

SECTION 22. Tennessee Code Annotated, Title 67, Chapter 4, Part 8, is amended by adding the following as a new section:

Section 67-4-823. (a) This section shall apply only to accounting periods (tax years) ending on or after July 1, 1999, but before June 30, 2000.

(b) A return for the excise tax imposed by this act is not required for accounting periods ending on or before June 30, 1999.

(c) A taxpayer, not subject to prior excise tax law, that has an accounting period ending on or after July 1, 1999, shall file its first return for the excise tax imposed by this act based on such period. In the event the accounting period begins before July 1, 1999, and ends on or after July 1, 1999, the excise taxes computed on the return shall be prorated by a ratio, the denominator of which is the number of days in the accounting period and the numerator of which is the number of days from and including July 1, 1999, until the close of the accounting period.

(d) For a taxpayer subject to excise tax under prior law, in the event the accounting period begins before July 1, 1999, and ends on or after July 1, 1999, the excise tax due under this act for this accounting period shall be the sum of (1) the excise tax computed under prior excise tax law, multiplied by a fraction, the denominator of which is the number of days in the accounting period and the numerator of which is the

number of days from the beginning of the accounting period until and including June 30, 1999; and (2) the excise tax computed under this act, multiplied by a fraction, the denominator of which is the number of days in the accounting period and the numerator of which is the number of days from and including July 1, 1999, until the close of the accounting period.

(e) Notwithstanding any provisions of law to the contrary, a taxpayer subject to the excise tax imposed by this act but who would not have been subject to the excise tax under prior law shall make all quarterly estimated tax payments required by § 67-4-817 that fall due after July 1, 1999, except that no such payment falling due prior to August 31, 1999, shall be required.

(f) Notwithstanding any provisions of law to the contrary, a taxpayer subject to the excise tax imposed by this act that would have been subject to the Tennessee excise tax under prior law shall make all quarterly estimated excise tax payments required by § 67-4-817 that fall due after July 1, 1999.

(g) Notwithstanding any provisions of law to the contrary, a taxpayer subject to the excise tax imposed by this act that has timely made all quarterly estimates required under this section will not be subject to penalty or interest if the total of all such quarterly payments equals at least: (1) seventy-five percent (75%) of the prior law excise tax liability plus the excise tax liability under this act due for the taxpayer's first tax year ended on or after July 1, 1999; or (2) one hundred percent (100%) of the prior law excise tax liability, if any, for the taxpayer's immediately preceding twelve (12) month tax year.

(h) Notwithstanding the provisions of § 67-1-803(a)(2)(A), the commissioner may waive any excise tax penalty imposed on a taxpayer who was not subject to the prior excise tax law and who has failed to register with the department for the excise tax; provided, however, that this provision shall apply only to tax years ending on or after July 1, 1999 and before July 2, 2001.

SECTION 23. Tennessee Code Annotated, Section 67-4-903, is amended by deleting subsections (a), (b) and (c) in their entirety and by substituting instead the following:

(a)(1) Doing business in Tennessee by any taxpayer is hereby declared to be a taxable privilege. The franchise tax imposed by this part is a tax on merchants, peddlers, and privileges as authorized by Article II, Section 28 of the Tennessee Constitution. The tax is an accrued tax and is imposed for the exercise of the specified privilege during the period that coincides with the tax year covered by the return required.

(2) All persons doing business in Tennessee, except those having not-for-profit status, shall, without exception other than as provided herein, pay to the commissioner of revenue annually a privilege tax in addition to all other taxes, the rate and measure of which are hereinafter set forth. The tax shall be paid for the privilege of engaging in business in this state and shall be in addition to all other taxes levied by any other statute.

(b) Every such taxpayer shall, as a recompense for the protection of its local activities and as compensation for the benefits it receives from doing business in Tennessee, pay the tax imposed by this part.

(c) The tax imposed by this part shall apply to every taxpayer whose business is being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction, and shall continue to accrue until such time as, in the case of an entity, such entity has been actually and legally dissolved or withdrawn from this state.

SECTION 24. Tennessee Code Annotated, Section 67-4-904, is amended by deleting the section in its entirety and substituting instead the following:

(a) The privilege tax hereby imposed shall be a tax of twenty-five cents (25¢) per one hundred dollars (\$100), or major fraction thereof, of a taxpayer's net worth, shown

by its books and records, kept in accordance with generally accepted accounting principles, at the close of the tax year covered by the required return.

(b) For purposes of this section, "net worth" is defined as the difference between the value of a taxpayer's total assets less such taxpayer's total liabilities as such assets and liabilities are shown on the taxpayer's balance sheet kept in accordance with generally accepted accounting principles for the tax year covered by the required return. Proper reductions of asset and liability accounts used to determine net worth for franchise tax purposes will be allowed if they are in accordance with generally accepted accounting principles. Treasury stock shall not be considered a part of the net worth of a corporation.

SECTION 25. Tennessee Code Annotated, Section 67-4-906(a), is further amended in subdivisions (2), (3), (5) and (6)(A) by deleting the word "corporation" and substituting instead the word "taxpayer".

SECTION 26. Tennessee Code Annotated, Section 67-4-906(a), is further amended in subdivision (6)(B) by deleting the word "corporate" and substituting the words "the taxpayer's".

SECTION 27. Tennessee Code Annotated, Section 67-4-906(a), is further amended in subdivision (8) by deleting the word "corporate" wherever it appears and substituting instead the words "the taxpayer's" and by deleting the word "corporation's" wherever it appears and substituting instead the word "taxpayer's".

SECTION 28. Tennessee Code Annotated, Section 67-4-908(c)(2)(A), is amended by deleting the words "business' franchise tax liability" and substituting instead the words "taxpayer's franchise tax liability"

SECTION 29. Tennessee Code Annotated, Section 67-4-908(c)(2)(C), is amended by deleting the language "A business shall file" and by substituting the language "A taxpayer shall file".

SECTION 30. Tennessee Code Annotated, Section 67-4-909, is amended by deleting the section in its entirety and substituting instead the following:

(a) In the case of taxpayers doing business in Tennessee and elsewhere, the measure of the tax as hereinabove set forth shall be apportioned to Tennessee for the purpose of taxation in the manner set forth in this part.

(b) For purposes of allocation and apportionment of net worth under this part, a taxpayer is taxable in another state if:

(1) In that state it is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(c) Nonbusiness sales shall not be included in the numerator or denominator of any apportionment formula.

SECTION 31. Tennessee Code Annotated, Section 67-4-910, is amended by deleting subsections (a), (b), (e)(3) and (g)(2) in their entirety and substituting instead the following:

(a) Except as may otherwise be provided in this part, the net worth of a taxpayer doing business both within and without Tennessee shall be apportioned to this state by multiplying such values by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor and the denominator of which is four (4).

(b)(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-906(a)(8), owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

(2) For purposes of this section, "property" shall not include not include a taxpayer's share of any specific property in a limited liability company in which such taxpayer has a membership interest.

(e)(3) For purposes of this section, "compensation" shall not include a taxpayer's share of any specific compensation of a limited liability company in which such taxpayer has a membership interest.

(g)(2) For purposes of this section, "total sales" shall not include a taxpayer's share of any specific sales of a limited liability company in which such taxpayer has a membership interest.

SECTION 32. Tennessee Code Annotated, Section 67-4-910, is amended by adding a new subdivision (j) as follows:

(j) Notwithstanding any provision of law other than §67-4-911 to the contrary, any person doing business in Tennessee, who licenses the use of patents, trademarks, trade names, copyrights, or know-how, or other intellectual property to another person in Tennessee, and who is paid royalties or other income based on the sale of products or other activity in Tennessee by the licensee, shall source such income to Tennessee for purposes of this apportionment formula sales factor.

SECTION 33. Tennessee Code Annotated, Section 67-4-911, is amended by deleting subsections (a) through (c) in their entirety, by renumbering subsequent subsections accordingly, and substituting instead the following:

(a) If the tax computation, allocation or apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, or the taxpayer's net worth, as adjusted, the taxpayer may petition for, or the department of revenue through its delegates may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one (1) or more of the formula factors;

(3) The inclusion of one (1) or more additional apportionment formula factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable computation, allocation and apportionment of the taxpayer's net worth, as adjusted, that fairly represents the extent of the business entity's activities in Tennessee.

(b) If any factors are excluded from or added to the statutory apportionment formula, an appropriate change shall be made in the number used as the denominator of the fraction.

(c) (1) In any case of two or more persons, organizations, trades or businesses (whether or not incorporated and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner through delegates may distribute, apportion, or allocate net worth, income, deductions, credits, or allowances between or among such persons, organizations, trades or businesses, if the commissioner determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes, excessive use or abuse of exemptions, or to clearly reflect the net worth of such persons, organizations, trades or businesses. In addition, the commissioner through delegates may require combined reports utilizing a common apportionment formula covering members of an affiliated group of corporations.

(2) The commissioner may disregard any entity created or transaction made which has no business purpose or is created or made with the primary purpose of evading either the federal income tax or the franchise tax.

(3) For purposes of this subsection, "affiliated group" has the same meaning attributed to it by section 1504 of the internal revenue code.

(d) When another method of tax computation, allocation or apportionment as set out above has once been established, it shall continue in effect until changed or

discontinued by the department. In the event that the department changes or discontinues a taxpayer's method of tax computation, allocation or apportionment, reasonable notice shall be given to the taxpayer affected and any such change or discontinuation in the method of tax computation, allocation or apportionment shall apply prospectively to the first and subsequent tax periods beginning on or after the date of such notice.

SECTION 34. Tennessee Code Annotated, Section 67-4-912, is amended in subdivision (3) by deleting the word "corporation" and substituting instead the word "taxpayer".

SECTION 35. Tennessee Code Annotated, Section 67-4-914, is amended by deleting each occurrence of the word "corporation" and by substituting instead the word "taxpayer".

SECTION 36. Tennessee Code Annotated, Section 67-4-914(a), is amended by inserting immediately after the words "following data" the language ", if applicable".

SECTION 37. Tennessee Code Annotated, Section 67-4-914(a), is amended in subdivision (1) by inserting immediately after the word "chartered" the words "or organized".

SECTION 38. Tennessee Code Annotated, Section 67-4-915, is amended by deleting the section in its entirety and substituting instead the following:

Section 67-4-915. (a) The franchise tax return shall be filed with the commissioner of revenue on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. The return must coincide with the accounting period covered by the federal return.

(b) The appropriate tax must be paid to the department of revenue at the time of filing the return.

(c) Additional payments shall be made as follows:

(1) Every person, who has a franchise tax liability of five thousand dollars (\$5,000) or more for the prior tax year or for the current tax year, shall make four equal quarterly estimated franchise tax payments for its current tax year.

(2) The first payment shall be due on the fifteenth day of the fourth month of its taxable year; the second payment on the fifteenth day of the sixth month; the third payment on the fifteenth day of the ninth month; and the final payment on the fifteenth day of the first month of the next succeeding taxable year; and

(d) If there is an underpayment of estimated tax, then there shall be added to the tax for the taxable year a penalty in the amount of five percent (5%) for each month of underpayment or part thereof not to exceed a total of twenty-five percent (25%);

(1) The amount of the underpayment for any quarterly installment shall be the lesser of:

(A) The amount of the installment that would be required to be paid if the estimated tax was equal to the tax for the preceding taxable year, if the year was one of twelve (12) months, less the amount of any installment paid on or before the last date prescribed for payment; or

(B) The amount of the installment that would be required to be paid if the estimated tax was equal to eighty percent (80%) of the tax for the current taxable year, less the amount of any installment paid on or before the last date prescribed for payment;

(2) The period of underpayment shall extend from the date the installment was required to be paid to the earlier of:

(A) The fifteenth day of the fourth month following the close of the taxable year; or

(B) With respect to all or any portion of the underpayment, the date on which all or any portion of the underpayment is paid;

(3) A payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment payable for that date;

(e) An extension of time of six (6) months in which to file the franchise tax return will be granted provided that on or before the original due date of the return, the taxpayer has paid franchise taxes equal to one hundred percent (100%) of the liability for the tax year for which the extension is being requested, and the extension request is made on a form prescribed by the department. Where the taxes paid on or before the original due date of the return do not equal one hundred percent (100%) of the liability for the tax year for which the extension is being requested, or if the return is not filed by the extended due date, penalty as provided by § 67-1-804 and interest as provided by § 67-1-801(a) shall attach as though no extension had been granted.

SECTION 39. Tennessee Code Annotated, Section 67-4-916, is amended by deleting the section in its entirety.

SECTION 40. Tennessee Code Annotated, Section 67-9-917, is amended by deleting the section in its entirety and substituting instead the following:

Section 67-9-917. (a) The commissioner is empowered to certify to the secretary of state the name of any taxpayer which fails or refuses to file any statement or franchise, excise tax return required by this act, or to pay any fee or tax herein required; however, no certification shall be issued until such statement, return, or tax has remained delinquent for a period of ninety (90) days.

(b) At the time of such certification to the secretary of state, the commissioner shall give notice to the taxpayer of the action taken. Thereupon, the charter, certificate of limited partnership, articles of organization or other organizational document of such taxpayer, as the case may be, or its domestication in Tennessee shall stand as automatically revoked and the secretary of state shall note such revocation upon the secretary of state's records.

(c) At any time after the date of revocation or dissolution, any such organizational document may be reinstated upon the filing of all reports and the payment

of all fees, taxes, penalty and interest due the state; provided, that the title has not been taken by another person, and that proof is furnished sufficient to the commissioner that no third party will be injured by such reinstatement, unless such proof has been furnished sufficient to the secretary of state upon requesting reinstatement.

SECTION 41. Tennessee Code Annotated, Section 67-4-918, is amended by deleting the section in its entirety and by substituting instead the following:

Section 67-4-918. The commissioner is empowered and it is the commissioner's duty to collect the tax, together with penalty and interest, levied hereunder from any officer, member, partner, stockholder or employee of a taxpayer entity which has dissolved or has been liquidated at a time when it has refused or failed to pay franchise tax levied under this part, and such officer, member, partner or stockholder has received property belonging to the taxpayer entity, but such collection shall be limited to the value of the property received.

SECTION 42. Tennessee Code Annotated, Title 67, Chapter 4, Part 9, is amended by adding the following as a new section:

Section 67-4-922. (a) This section shall apply only to accounting periods (tax years) ending on or after July 1, 1999, but before June 30, 2000.

(b) A return for the franchise tax imposed by this act is not required for accounting periods ending on or before June 30, 1999.

(c) A taxpayer, not subject to prior franchise tax law, that has an accounting period ending on or after July 1, 1999, shall file its first return for the franchise tax imposed by this act based on such period. In the event the accounting period begins before July 1, 1999, and ends on or after July 1, 1999, the taxes computed on the return shall be prorated by a ratio, the denominator of which is the number of days in the accounting period and the numerator of which is the number of days from and including July 1, 1999, until the close of the accounting period.

(d) For a taxpayer subject to franchise tax under prior law, in the event the accounting period begins before July 1, 1999, and ends on or after July 1, 1999, the franchise tax due under this act for this accounting period shall be the sum of (a) the tax computed under prior franchise tax law, multiplied by a fraction, the denominator of which is the number of days in the accounting period and the numerator of which is the number of days from the beginning of the accounting period until and including June 30, 1999; and (b) the franchise tax computed under this act, multiplied by a fraction, the denominator of which is the number of days in the accounting period and the numerator of which is the number of days from and including July 1, 1999, until the close of the accounting period.

(e) Notwithstanding any provisions of law to the contrary, taxpayers subject to the franchise tax imposed by this act shall make all quarterly estimated franchise tax payments required by § 67-4-915 that fall due after July 1, 1999, except that no such payment falling due prior to August 31, 1999, shall be required.

(f) Notwithstanding any provisions of law to the contrary, a taxpayer subject to the franchise tax imposed by this act that has timely made all quarterly estimates required under this section will not be subject to penalty or interest if the total of all such quarterly payments equals at least: (1) seventy-five percent (75%) of the prior law franchise tax liability plus the franchise tax liability under this act due for the taxpayer's first tax year ended on or after July 1, 1999; or (2) one hundred percent (100%) of the prior law franchise tax liability, if any, for the taxpayer's immediately preceding twelve (12) month tax year.

(g) Notwithstanding the provisions of § 67-1-803(a)(2)(A), the commissioner may waive any franchise tax penalty imposed on a taxpayer who was not subject to the prior franchise tax law and who has failed to register with the department for the franchise tax;

provided, however, that this provision shall apply only to tax years ending on or after July 1, 1999 and before July 2, 2001.

SECTION 43. Tennessee Code Annotated, Title 67, Chapter 4, is amended by deleting Part 17 in its entirety.

SECTION 44. Tennessee Code Annotated, Title 67, is amended by deleting Chapter 2 in its entirety.

SECTION 45. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

Section _____. The sale of food or food products for off-premises human consumption shall be exempt from any tax imposed by this chapter. "Food or food product" means items which are eligible to be purchased with food stamps from vendors who are or could become eligible to participate in the food stamp program established by the Food Stamp Act of 1977 (7 U.S.C. §§ 2011 through 2029) as it may be amended from time to time.

SECTION 46. As used in Section 47 through Section 58 of this act, unless the context otherwise requires:

(1) "Another state" means another state, the District of Columbia, or a territory or possession of the United States.

(2) "Commissioner" means the commissioner of revenue.

(3) "Department" means the department of revenue.

(4) "Employee" means and includes every individual who is a resident of or domiciled in the state of Tennessee performing services for an employer, either within or without or both within and without the state of Tennessee, or any individual performing services within the state of Tennessee, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee, and includes officers of corporations and individuals, including elected officials, performing services for the United States government or any agency or

instrumentality thereof or the state of Tennessee or any county, city or municipality, or political subdivision thereof.

(5) "Employer" means a natural person, subchapter S corporation, partnership, limited liability company, limited partnership, proprietorship, cooperative, state-chartered or national bank, state or federally chartered savings and loan association, regulated investment company, association, joint-stock company, business trust, corporation, or other form of organization, whether domestic or foreign, transacting business in or deriving income from sources within the state of Tennessee for whom an individual performs or performed any services, of whatever nature, who has control of the payment of wages for such services or is the officer, agent, or employee of the person having control of the payment of wages; or the state of Tennessee, or any department, political subdivision, county, or municipality thereof or any other governmental entity, which has in its employ one (1) or more individuals performing services for it.

(6) "Resident individual" means a natural person who is domiciled in this state and a natural person who maintains a permanent place of abode within this state and who spends in the aggregate more than six (6) months of the taxable year within this state. A "nonresident individual" means an individual other than a resident individual.

(7) "Wages" means any remuneration for services performed by an employee for an employer, including the cash value of all such remuneration paid in any medium or form other than cash.

(8) Any term used in this act shall have the same meaning as when used in a comparable context in the federal "Internal Revenue Code of 1986," as amended. Any reference in this part to the "Internal Revenue Code" means the provisions of the "Internal Revenue Code of 1986," and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time or from time to time, for the taxable year.

SECTION 47. There is levied a tax in an amount equal to two percent (2%) per annum of the federal adjusted gross income on every individual, subject to the following adjustments:

(1) There shall be subtracted from the federal adjusted gross income any interest income on obligations of the United States and its possessions to the extent included in federal adjusted gross income; and

(2) There shall be subtracted from the federal gross income the sum of four thousand dollars (\$4,000) for each personal exemption granted to such individual under the internal revenue code.

SECTION 48. The tax herein provided for is for state purposes only, and no county or municipality shall have power to levy the same.

SECTION 49. Revenues generated by the income tax provided for by this act are earmarked for the general fund.

SECTION 50. If the federal adjusted gross income of a husband or wife, or both, is determined on separate federal returns, such income for purposes of the Tennessee income tax shall be separately determined. If the federal adjusted gross income of a husband and wife is determined on a joint federal return, their tax shall be determined on their joint federal adjusted gross income.

SECTION 51. (a) On each income tax return, a credit shall be allowed to a resident individual who has income derived from sources in another state as follows:

(1) For purposes of ascertaining the Tennessee income tax due by a resident individual whose adjusted gross income includes income derived from sources in another state, the Tennessee income tax shall first be computed as if all of the income of the resident were derived from sources within Tennessee. A credit shall then be given on the tax so computed for the amount of income tax actually accrued to another state because of income from sources within that state. This credit shall be subject to the following limitations:

(A) The credit shall not exceed the tax which would be due on the income, if added to the income subject to Tennessee tax, and calculated at the Tennessee income tax rate.

(B) The credit shall not include interest and penalties paid to another state.

(2) If accrued taxes when paid differed from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the commissioner who shall determine the amount of tax due for the years affected. In the case of such a tax accrued but not paid, the commissioner, as a condition precedent to the allowance of a credit, may require the taxpayer to deposit a surety bond or other security acceptable to the commissioner in such amount as the commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found to be due upon any such determination.

(b) The credits provided for in this section, irrespective of the method of accounting employed by the taxpayer in keeping such taxpayer's books, shall be taken in the year in which the taxes of another state accrue, subject to the conditions prescribed in this section.

(c) The credits provided by this section shall be allowed only if the taxpayer furnishes to the commissioner all information necessary for the verification and computation of such credits as the commissioner may require.

SECTION 52. (a) In the case of a nonresident individual, the tax imposed shall be on the Tennessee nonresident federal adjusted gross income.

(b) "Tennessee nonresident federal adjusted gross income" means that part of the individual's federal adjusted gross income as determined pursuant to Section 62 of the Internal Revenue Code derived from sources within Tennessee when such income is attributable to:

(1) The ownership of any interest in real or tangible personal property in Tennessee;

(2) A business, trade, profession, or occupation carried on in Tennessee;

(3) The taxpayer's distributive share of partnership or limited liability company income, gain, loss, and deduction to the extent such income is derived from sources within Tennessee;

(4) The taxpayer's share of estate or trust income, gain, loss, and deduction to the extent such income is derived from sources in Tennessee; or

(5) Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in Tennessee.

(c) If the federal adjusted gross income of a husband or wife, or both, both of whom are nonresidents, is determined on separate federal returns, their Tennessee adjusted gross incomes shall be separately determined. If the federal adjusted gross income of a husband and wife, both of whom are nonresidents, is determined on a joint federal return, their tax shall be determined on their joint Tennessee nonresident federal adjusted gross income.

SECTION 53. (a) In the case of an individual who is a resident of Tennessee for part of the individual's taxable year, the tax shall be apportioned in the ratio of that part of such individual's federal adjusted gross income which relates to the period of the year such individual was a Tennessee resident to the individual's total federal adjusted gross income.

(b) A taxpayer filing a part-year resident return shall also file as a nonresident for the remaining portion of such resident's federal taxable year in the event the taxpayer has income within such remaining portion derived from sources within Tennessee.

SECTION 54. (a) The taxpayer's taxable year under this act shall be the same as such taxpayer's taxable year for federal income tax purposes. If a taxpayer's taxable year is changed

for federal income tax purposes, the taxable year for purposes of this act shall be similarly changed.

(b) The taxpayer's method of accounting under this act shall be the same as is the method of accounting for federal income tax purposes. If a taxpayer's method of accounting is changed for federal income tax purposes this act shall be similarly changed.

SECTION 55. (a) Every employer making payment of wages shall deduct and withhold from each wage payment of an employee two percent (2%) of the wages paid, subject to the exemptions provided below, in order to approximate the income tax due to the state of Tennessee by the employee subject to rules promulgated by the commissioner. The employer shall withhold the state income tax in the same manner and at the same time as amounts are withheld from the employee's wages for federal tax purposes.

(b) An employee receiving wages is entitled to an exemption from withholding for state income tax purposes equal to the amount of deductions based on personal exemptions to which the employee is entitled for the tax year under this act.

(c) The employee shall furnish the employer a signed exemption certificate showing the number of withholding exemptions claimed for state income tax purposes at the same time an exemption certificate is required to be filed with an employer by the Internal Revenue Service or at such time as otherwise required by the commissioner.

(d) An employer shall not be required to deduct and withhold any tax under this act upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate furnished to the employer by the employee certifying that the employee anticipates he will incur no liability for income tax imposed under this act.

(e) Every employer, irrespective of whether or not such employer deducted and withheld the amounts as provided in this section, shall be liable for the amounts required to be deducted and withheld unless, in the case of any failure to deduct and withhold such amounts, it is shown that such failure was due to reasonable cause and not due to willful neglect. If the employer in

violation of the provisions of this section, fails to deduct and withhold the amounts as provided in this section and thereafter the tax against which such deducted and withheld amounts would have been credited is paid, the amounts so required by this section to be deducted and withheld shall not be collected from the employer; but in no such case, unless due to reasonable cause, shall the employer be relieved from liability for any penalties or additions to the amounts required under this section to be deducted and withheld otherwise applicable to any such failure to deduct and withhold.

(f) Every employer subject to the provisions of this section shall file a return, in such form as shall be determined by the department of revenue, and remit the amount withheld in accordance with the time schedule established for the remittance of withholding tax by the Internal Revenue Code, as amended, and any regulations thereto. Failure to remit the amount withheld timely shall subject the employer to those penalties and interest applicable under Tennessee Code Annotated, Sections 67-1-801 and 67-1-804.

(g) Every employer subject to the provisions of this section who operates a business on a seasonal basis shall file a return and remit the tax withheld on or before the fifteenth day of the following month for each month during which the business is operated. The employer shall state the months during which the employer expects to operate the business and shall notify the department of revenue of any changes in the months of operation.

(h) All amounts deducted and withheld shall be considered as tax collected under the provisions of this section and no employee shall have any right of action against an employer in respect to any monies so deducted and withheld from wages and paid over to the department in compliance or intended compliance with this section.

(i) Every employer shall, in accordance with such regulation as shall be prescribed by the department of revenue, provide each employee with a statement of the amount of money deducted and withheld from such employee's wages in accordance with the provisions of this section. Every employer shall also make an annual statement for each employee to the

department of revenue, on such forms as are provided or approved by the department, a copy of which shall be provided each employee, summarizing the total compensation paid and the tax withheld for such employee during the preceding calendar year or any portion thereof, and the said annual statement shall be filed on or before March 15 of the year following that for which the report is made. Failure to file the statements within the time prescribed therefor, unless shown to have been due to reasonable cause, or the willful filing or furnishing of false or fraudulent statements, shall subject the employer to a penalty, at the discretion of the commissioner, of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00), which shall be in addition to any criminal penalty otherwise provided for failure to file a return or for filing a false or fraudulent return.

(j) Every employer who deducts and withholds any amounts under the provisions of this section shall hold the same in trust for the state of Tennessee for the payment thereof to the department in the manner and at the time provided in this section, and the state of Tennessee and the department shall have a lien to secure the payment of any amounts withheld and not remitted as provided in this section upon all of the assets of the employer and all property, including stock in trade, business fixtures, and equipment, owned or used by the employer in conducting business, so long as any delinquency continues. The lien of the state shall be entitled to the same priority established for other tax liens by Tennessee Code Annotated, Section 67-1-1403, and the taxes owed may be collected in the same manner as other state taxes.

(k) The commissioner may establish by rule periodic filing and payment dates in those instances where the commissioner deems it to be in the best interests of the state to do so.

(l) Every employer required to withhold wages under this section shall register with the department on or after July 1, 1999, in such manner as the department may require. Any employer who fails to register for withholding by October 1, 1999, shall be subject to a penalty to be determined by the commissioner, not to exceed one thousand dollars (\$1,000). Any

employer who becomes subject to this act after September 1, 1999, shall register within thirty (30) days of the date of becoming an employer within the meaning of this act, and shall be subject to the aforementioned penalty for failure to timely register.

(m) Liability for taxes or withholding under this act may be challenged only upon compliance with the provisions of Tennessee Code Annotated, Section 67-1-1801, or Section 67-1- 1802; except that, prior to January 1, 2000, any employer required to register for withholding or any person subject to the tax may challenge the constitutionality or validity of such requirement by instituting an action for declaratory relief. Such action must be brought in the Chancery Court of Davidson County. Such action shall be granted priority and be expedited by the court.

SECTION 56. (a) Whenever a resident individual or a nonresident individual with income from Tennessee sources is required to file a federal income tax return under the provisions of Section 6012 of the Internal Revenue Code, the individual shall also be required to file a Tennessee income tax return with the commissioner of revenue on or before the fifteenth day of the fourth month following the close of the individual's taxable year.

(b) The appropriate tax must be paid to the department of revenue at the time of filing the return by the individual.

(c) Additional payments shall be made as follows:

(1) Every individual who can reasonably be expected to have gross income in excess of twenty thousand dollars (\$20,000) from sources other than wages for such individual's taxable year shall file on or before the fifteenth day of the fourth month of such taxable year a declaration of estimated income tax in Tennessee on income other than wages subject to withholding.

(A) The declaration of estimated tax shall be the lesser of:

(i) Ninety percent (90%) of the tax shown on the return for the taxable year (or, if no return is filed, ninety percent (90%) of the declaration of estimated tax), or

(ii) One hundred percent (100%) of the tax shown on the individual's tax return for the preceding tax year.

(B) Subitem (ii) of subdivision (1)(A) shall not apply if the individual was not a resident of Tennessee for the preceding 12 months or if the individual did not file a tax return for the preceding year.

(C) Based upon this declaration, the individual shall make four (4) equal quarterly tax payments for such individual's taxable year.

(D) The first payment shall be due on the fifteenth day of the fourth month of an individual's taxable year; the second payment on the fifteenth day of the sixth month; the third payment on the fifteenth day of the ninth month; and the final payment on the fifteenth day of the first month of the subsequent taxable year.

(E) With the annual return filed with the commissioner, the individual shall either make payment of additional tax due according to that return or shall file for a refund based on an overpayment of tax and shall be paid accordingly by the department.

(2) If there is an underpayment of estimated tax, then there shall be added to the tax for the taxable year an amount determined by multiplying the amount of the underpayment by the rate of interest determined in accordance with Tennessee Code Annotated, Section 67-1-801(a)(1)(A) for the period of the underpayment.

(A) The amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(B) The period of underpayment shall extend from the date the installment was required to be paid to the earlier of:

(i) The fifteenth day of the fourth month following the close of the taxable year; or

(ii) With respect to all or any portion of the underpayment, the date on which all or any portion of the underpayment is paid.

(C) A payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment payable for that date.

(3) Amended or revised declarations may be made in any case in which an individual estimates that such individual's gross income, deductions, or credits will materially change the estimated tax reported in the previous declaration. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect such increase or decrease in the estimated tax by reason of such amendment.

(4) If the federal adjusted gross income of a husband and wife is determined on a joint federal return, a husband and wife may make a joint declaration of estimated tax as if they were one taxpayer, in which case the liability with respect to the estimated tax shall be joint and several. If a joint declaration is made but their taxes are determined under this act separately, the estimated tax for such year may be treated as the estimated tax of either husband or wife, or may be divided between them as they may elect.

SECTION 57. Any request for an extension of time, up to but not exceeding nine (9) months, in which to file the individual's tax return will be granted automatically provided the appropriate payment of tax is made on or before the statutory due date of the return and such payment is made on the form prescribed by the department or reasonable facsimile thereof. The

appropriate payment will be an amount equal to the prior year's total liability unless a statement is furnished as to the reason the prior year's total liability is not a true indication of present liability or there was no liability for the preceding year. If there was no liability for the preceding year, the total payment must equal at least ninety percent (90%) of the final liability. If the total payment does not equal the prior year's liability as modified by any authorized change or does not equal ninety percent (90%) of the final liability, a penalty shall be applicable to the total deficient amount of taxes. Any payment of Tennessee estimated income tax made for the tax year or any other credits should be considered in determining the amount to be paid. The deficient amount of taxes shall bear interest at the rate prescribed by Tennessee Code Annotated, Section 67-1-801.

SECTION 58. (a) The commissioner is authorized, with the approval of the comptroller and the governor or the governor's delegate, to enter into an agreement with the secretary of the treasury of the United States or the secretary's delegate, under which, to the extent provided by the terms of the agreement, the secretary or the delegate will assist in the overall administration of the tax. The cost of the services performed by the secretary or the delegate in such activities under the terms of any agreement may be paid from the appropriations for the general operations of the Department of Revenue.

(b) The commissioner is authorized, with the approval of the comptroller and the governor or the governor's delegate, to enter into an agreement with the secretary of the treasury of the United States or the secretary's delegate under which, to the extent provided by the terms of the agreement, the commissioner will undertake to conduct on behalf of the United States any tax administration functions in respect to the federal income tax on individuals. Such agreement shall make provision for the payment by the United States of costs of the services performed on its behalf.

SECTION 59. Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "six percent (6%)" and substituting instead the language "five percent (5%)".

SECTION 60. Tennessee Code Annotated, Section 67-6-202(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Notwithstanding any other provision of law to the contrary, a portion of the five percent (5%) sales tax rate, as established and imposed by this act in this section and §§ 67-6-203, 67-6-204, 67-6-205 and 67-6-221, equal to one-half percent (0.5%) shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

SECTION 61. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears and substituting instead the language "five percent (5%)".

SECTION 62. Tennessee Code Annotated, Section 67-6-204(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d) Notwithstanding any other provision of law to the contrary, a portion of the five percent (5%) sales tax rate, as established and imposed by this act in this section and §§ 67-6-202, 67-6-203, 67-6-205 and 67-6-221, equal to one-half percent (0.5%) shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

SECTION 63. Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the language "six percent (6%)" and substituting instead the language "five percent (5%)".

SECTION 64. Tennessee Code Annotated, Section 67-6-205(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Notwithstanding any other provision of law to the contrary, a portion of the five percent (5%) sales tax rate, as established and imposed by this act in this section and §§ 67-6-202, 67-6-203, 67-6-204 and 67-6-221, equal to one-half percent (0.5%) shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

SECTION 65. Tennessee Code Annotated, Section 67-6-221(a), is amended by deleting the language "six percent (6%)" and substituting instead the language "five percent (5%)".

SECTION 66. Tennessee Code Annotated, Section 67-6-221(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) Notwithstanding any other provision of law to the contrary, a portion of the five percent (5%) sales tax rate, as established and imposed by this act in this section and §§ 67-6-202, 67-6-203, 67-6-204 and 67-6-205, equal to one-half percent (0.5%) shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

SECTION 67. All the taxes collected from the tax levied in Section 47 shall be allocated as follows:

(1)(A) For the fiscal year beginning July 1, 1999, cities and counties shall receive the following amounts:

LOCALITY	AMOUNT
Anderson County	\$ 90,031
Clinton	\$773,993
Lake City	\$150,714
Norris	\$ 78,050
Oak Ridge	\$1,262,788
Oliver Springs	\$243,157
Bedford County	\$61,442
Bell Buckle	\$405
Normandy	\$1,220
Shelbyville	\$640,281
Wartrace	\$3,857
Benton County	\$69,329
Big Sandy	\$63,190
Camden	\$415,931
Bledsoe County	\$31,753
Pikeville	\$140,816
Blount County	\$312,905
Alcoa	\$894,625
Friendsville	\$11,359
Louisville	\$28,163
Maryville	\$1,375,240
Rockford	\$12,478
Townsend	\$40,338
Bradley County	\$462,722
Charleston	\$27,370
Cleveland	\$1,716,132
Campbell County	\$120,498
Caryville	\$52,996
Jacksboro	\$20,677
Jellico	\$73,457
LaFollette	\$731,709
Lake City	\$198
Cannon County	\$22,520
Auburntown	\$13,990
Woodbury	\$113,703
Carroll County	\$45,270
Atwood	\$22,669
Bruceton	\$15,878
Clarksburg	\$27,970
Hollow Rock	\$17,371
Huntingdon	\$305,933
McKenzie	\$289,488
McLemoresville	\$9,845
Trezevant	\$37,977
Carter County	\$225,873

Elizabethton	\$1,007,984
Johnson City	\$572
Watauga	\$1,630
Cheatham County	\$161,193
Ashland City	\$397,103
Kingston Springs	\$118,670
Pegram	\$48,587
Pleasantview	\$71,201
Chester County	\$51,539
Enville	\$154
Henderson	\$275,501
Milledgeville	\$5,400
Silerton	\$100
Claiborne County	\$90,802
Cumberland	\$31,965
Harrogate	\$36,414
New Tazewell	\$276,758
Tazewell	\$117,190
Clay County	\$25,685
Celina	\$40,204
Cocke County	\$163,012
Newport	\$746,563
Parrottsville	\$12,767
Coffee County	\$131,287
Manchester	\$519,693
Tullahoma	\$647,769
Crockett County	\$33,347
Alamo	\$122,941
Bells	\$79,462
Friendship	\$20,171
Gadsden	\$10,538
Maury City	\$50,351
Cumberland County	\$152,391
Crab Orchard	\$22,764
Crossville	\$1,016,608
Pleasant Hill	\$13,261
Davidson County	\$4,455,174
Belle Meade	\$100
Berry Hill	\$15,408
Forest Hill	\$100
Goodlettsville	\$1,027,712
Lakewood	\$2,724
Nashville	\$12,938,807
Oak Hill	\$100
Ridgetop	\$100
Decatur County	\$45,623
Decaturville	\$36,417
Parsons	\$161,965
Scotts Hill	\$1,401
DeKalb County	\$87,753
Alexandria	\$28,958

Dowelltown	\$587
Liberty	\$14,849
Smithville	\$161,565
Dickson County	\$80,531
Burns	\$21,157
Charlotte	\$68,206
Dickson	\$911,998
Slayden	\$4,244
Vanleer	\$5,624
White Bluff	\$105,759
Dyer County	\$64,295
Dyersburg	\$955,388
Newbern	\$120,141
Trimble	\$12,522
Fayette County	\$51,393
Braden	\$117
Gallaway	\$2,622
Grand Junction	\$6,852
La Grange	\$1,378
Moscow	\$37,341
Oakland	\$25,162
Piperton	\$10,591
Rossville	\$15,894
Somerville	\$223,198
Williston	\$100
Fentress County	\$159,211
Allardt	\$34,088
Jamestown	\$297,589
Franklin County	\$81,857
Cowan	\$36,269
Decherd	\$318,274
Estill Springs	\$34,970
Huntland	\$38,030
Tullahoma	\$1,238
Winchester	\$276,611
Gibson County	\$27,107
Bradford	\$34,183
Dyer	\$109,298
Gibson	\$8,538
Humboldt	\$358,365
Kenton	\$33,644
Medina	\$22,009
Milan	\$260,688
Rutherford	\$23,016
Trenton	\$395,611
Yorkville	\$100
Giles County	\$80,234
Ardmore	\$59,715
Elkton	\$21,910
Lynnville	\$2,728
Minor Hill	\$100

Pulaski	\$548,125
Grainger County	\$109,968
Bean Station	\$140,441
Blaine	\$59,542
Rutledge	\$55,231
Greene County	\$199,596
Baileyton	\$63,840
Greeneville	\$1,524,553
Mosheim	\$150,950
Tusculum	\$2,045
Grundy County	\$34,034
Altamont	\$8,917
Beersheba Springs	\$2,906
Coalmont	\$19,813
Gruet Laager	\$59,650
Monteagle	\$26,968
Palmer	\$15,346
Tracy City	\$96,222
Hamblen County	\$99,025
Morristown	\$1,995,708
White Pine	\$1,134
Hamilton County	\$707,999
Chattanooga	\$6,076,178
Collegedale	\$111,907
East Ridge	\$771,465
Lakesite	\$200,829
Lookout Mtn	\$1,206
Red Bank	\$304,248
Ridgeside	\$100
Signal Mtn	\$100,013
Soddy Daisy	\$365,126
Walden	\$6,544
Hancock County	\$18,326
Sneedville	\$53,923
Hardeman County	\$101,848
Bolivar	\$264,649
Grand Junction	\$29,622
Hickory Valley	\$9,278
Hornsby	\$10,067
Middleton	\$78,426
Saulsberry	\$10,789
Silerton	\$100
Toone	\$6,470
Whiteville	\$35,948
Hardin County	\$133,167
Adamsville	\$100
Crump	\$9,446
Milledgeville	\$100
Saltillo	\$7,313
Savannah	\$419,873
Hawkins County	\$95,799

Bulls Gap	\$25,733
Church Hill	\$174,112
Kingsport	\$152,458
Mt Carmel	\$209,448
Rogersville	\$686,117
Surgoinsville	\$31,210
Haywood County	\$42,155
Brownsville	\$308,865
Stanton	\$4,384
Henderson County	\$46,817
Lexington	\$578,948
Parkers Cr	\$60,995
Sardis	\$4,346
Scotts Hill	\$88,311
Henry County	\$64,633
Cottage Grove	\$4,628
Henry	\$6,777
McKenzie	\$7,786
Paris	\$623,876
Puryear	\$13,526
Hickman County	\$141,552
Centerville	\$215,181
Houston County	\$9,037
Erin	\$133,076
Tenn. Ridge	\$63,416
Humphreys County	\$88,454
McEwen	\$64,040
New Johnsonville	\$77,599
Waverly	\$276,303
Jackson County	\$32,425
Gainesboro	\$126,812
Jefferson County	\$106,519
Baneberry	\$100
Dandridge	\$170,131
Jefferson City	\$545,441
New Market	\$19,993
White Pine	\$175,773
Johnson County	\$56,345
Mtn City	\$179,204
Knox County	\$2,914,140
Farragut	\$542,610
Knoxville	\$9,034,657
Lake County	\$90,721
Ridgely	\$43,175
Tiptonville	\$36,886
Lauderdale County	\$84,467
Gates	\$6,433
Halls	\$114,640
Henning	\$26,734
Ripley	\$337,098
Lawrence County	\$196,015

Ethridge	\$25,069
Iron City	\$100
Lawrenceburg	\$750,253
Loretto	\$89,816
St Joseph	\$38,934
Lewis County	\$14,642
Hohenwald	\$288,056
Lincoln County	\$91,475
Fayetteville	\$595,878
Petersburg	\$8,611
Loudon County	\$86,067
Greenback	\$152
Lenoir City	\$533,720
Loudon City	\$297,843
Philadelphia	\$3,878
McMinn County	\$93,420
Athens	\$797,591
Calhoun	\$9,947
Englewood	\$23,602
Etowah	\$214,222
Niota	\$12,671
Sweetwater	\$1,904
McNairy County	\$23,281
Adamsville	\$97,319
Bethel Springs	\$7,228
Eastview	\$11,941
Enville	\$100
Finger	\$5,179
Guys	\$4,878
Lafayette	\$327,110
Michie	\$12,985
Milledgeville	\$6,328
Ramer	\$18,923
Red Boiling Spg	\$46,039
Selmer	\$203,632
Stantonville	\$2,136
Macon County	\$23,351
Madison County	\$287,227
Humboldt	\$100
Jackson	\$2,944,377
Medon	\$2,099
Marion County	\$83,429
Jasper	\$211,868
Kimball	\$162,629
Monteagle	\$114,011
New Hope	\$1,210
Orme	\$100
Powell's Crossroads	\$8,110
S Pittsburg	\$138,087
Whitwell	\$107,773
Marshall County	\$63,351

Chapel Hill	\$86,087
Cornersville	\$48,719
Lewisburg	\$619,027
Petersburg	\$13,178
Maury County	\$81,578
Columbia	\$1,701,107
Mt Pleasant	\$143,948
Spring Hill	\$164,775
Meigs County	\$56,516
Decatur	\$108,713
Monroe County	\$97,457
Madisonville	\$388,758
Sweetwater	\$395,168
Tellico Plns	\$91,360
Vonore	\$72,439
Montgomery County	\$252,718
Clarksville	\$2,553,959
Moore County	\$5,892
Lynchburg	\$41,529
Morgan County	\$62,597
Oakdale	\$100
Oliver Springs	\$1,295
Sunbright	\$29,167
Wartburg	\$168,081
Obion County	\$23,465
Hornbeak	\$16,466
Kenton	\$16,506
Obion	\$17,767
Rives	\$100
S Fulton	\$5,017
Samburg	\$17,762
Trimble	\$100
Troy	\$37,674
Union City	\$536,744
WdInd Mill	\$100
Overton County	\$111,803
Livingston	\$381,877
Perry County	\$14,259
Linden	\$123,706
Lobelville	\$36,707
Pickett County	\$39,607
Byrdstown	\$30,688
Polk County	\$97,661
Benton	\$105,911
Copperhill	\$7,239
Ducktown	\$90,720
Putnam County	\$72,893
Algood	\$60,386
Baxter	\$46,236
Cookeville	\$1,474,349
Monterey	\$110,360

Rhea County	\$109,461
Dayton	\$487,640
Graysville	\$4,517
Spring City	\$109,978
Roane County	\$110,659
Harriman	\$418,419
Kingston	\$368,168
Oak Ridge	\$3,050
Oliver Spg	\$6,008
Rockwood	\$497,701
Robertson County	\$97,094
Adams	\$5,049
Cedar Hill	\$9,879
Coopertown	\$39,286
Cross Plains	\$54,032
Greenbrier	\$71,597
Millersville	\$21,936
Orlinda	\$21,068
Ridgetop	\$40,055
Springfield	\$801,859
White House	\$72,864
Rutherford County	\$171,871
Eagleville	\$52,089
LaVergne	\$344,565
Murfreesboro	\$2,710,723
Smyrna	\$1,019,971
Scott County	\$127,380
Huntsville	\$13,193
Oneida	\$334,614
Winfield	\$29,528
Sequatchie County	\$25,314
Dunlap	\$248,953
Sevier County	\$601,735
Gatlinburg	\$386,571
Pigeon Forge	\$789,203
Pittman Ctr	\$5,766
Sevierville	\$1,303,900
Shelby County	\$2,273,358
Arlington	\$76,697
Bartlett	\$1,484,064
Collierville	\$839,105
Germantown	\$1,319,625
Lakeland	\$226,577
Memphis	\$15,002,402
Millington	\$514,368
Smith County	\$20,669
Carthage	\$247,043
Gordonsville	\$41,552
S Carthage	\$56,724
Stewart County	\$55,666
Cumberland City	\$16,535

Dover	\$147,313
Sullivan County	\$779,493
Bluff City	\$33,196
Bristol	\$948,971
Johnson City	\$12,521
Kingsport	\$2,323,436
Sumner County	\$226,846
Gallatin	\$954,547
Goodlettsville	\$18,400
Hendersonville	\$1,152,867
Millersville	\$85,245
Mitchellville	\$100
Portland	\$246,859
Westmoreland	\$118,401
White House	\$176,257
Tipton County	\$116,997
Atoka	\$52,112
Brighton	\$25,335
Burlison	\$6,375
Covington	\$544,112
Garland	\$100
Gilt Edge	\$3,669
Mason	\$11,501
Munford	\$96,624
Trousdale County	\$12,335
Hartsville	\$167,560
Unicoi County	\$95,118
Erwin	\$341,444
Unicoi City	\$17,330
Union County	\$34,746
Luttrell	\$13,237
Maynardville	\$128,538
Plainview	\$13,794
Van Buren County	\$37,090
Spencer	\$70,188
Warren County	\$194,120
Centertown	\$100
McMinnville	\$682,641
Morrison	\$11,205
Viola	\$5,311
Washington County	\$404,384
Johnson City	\$2,580,084
Jonesborough	\$382,151
Watauga	\$100
Wayne County	\$44,624
Clifton	\$21,561
Collinwood	\$58,664
Iron City	\$4,669
Waynesboro	\$124,676
Weakley County	\$20,206
Dresden	\$183,910

Gleason	\$26,789
Greenfield	\$68,652
Martin	\$358,407
McKenzie	\$100
Sharon	\$31,982
White County	\$180,370
Doyle	\$4,283
Sparta	\$348,846
Williamson County	\$347,656
Brentwood	\$1,388,948
Fairview	\$178,096
Franklin	\$2,218,742
Nolensville	\$67,397
Spring Hill	\$340
Thompson Station	\$13,668
Wilson County	\$227,629
Lebanon	\$1,042,782
Mt Juliet	\$569,235
Watertown	\$13,825

(B) For the fiscal year beginning July 1, 2000, the distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%).

(C) For fiscal years beginning July 1, 2001, and thereafter, the distribution shall be adjusted by an amount equal to the percentage change in the collections from the tax levied in Section 47 from the preceding fiscal year to the next preceding year.

(D) This allocation shall be made to the county trustee and shall be distributed in accordance with the provisions of Section 67-6-712. It shall be distributed in twelve (12) equal monthly payments during each fiscal year.

(2) For the fiscal year beginning July 1, 1999, the premier type resort area defined in § 67-6-103(a)(B)(ii) shall receive an allocation of one hundred thirty-three thousand, seven hundred dollars (\$133,700), and the premier type resort area defined in § 67-6-103(a)(B)(iii) shall receive an allocation of two hundred

forty-six thousand dollars (\$246,000). For the fiscal year beginning July 1, 2000, the distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%). For fiscal years beginning July 1, 2001, and thereafter, the distribution shall be adjusted by an amount equal to the percentage change in the tax collections from the tax levied in Section 47 from the preceding fiscal year to the next preceding year. This allocation shall be distributed in twelve (12) equal monthly payments each year.

(3) For the fiscal year beginning July 1, 1999, the amount of thirty-three million, two hundred eight thousand, two hundred dollars (\$33,208,200) shall be allocated to the general fund and earmarked for education purposes in kindergarten (K) through grade twelve (12), pursuant to §67-6-103(c)(2). For the fiscal year beginning July 1, 2000, the distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%). For fiscal years beginning July 1, 2001, and thereafter, the distribution shall be adjusted by an amount equal to the tax collections from the tax levied in Section 47 from the preceding fiscal year to the next preceding year. This allocation shall be distributed in twelve (12) equal monthly payments each year.

(4) For the fiscal year beginning July 1, 1999, the amount of two hundred thirty-seven million, five hundred forty-six thousand, eight hundred dollars (\$237,546,800) shall be earmarked specifically and exclusively to educational purposes. For the fiscal year beginning July 1, 2000, the distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%). For fiscal years beginning July 1, 2001, and thereafter, the distribution shall be adjusted by an amount equal to the percentage change in the tax collections from the tax levied in Section 47 from the preceding fiscal year to the

next preceding year. This allocation shall be distributed in twelve (12) equal monthly payments each year.

(5) For the fiscal year beginning July 1, 1999, the amount of sixteen million, seven hundred fifty-eight thousand, six hundred dollars (\$16,758,600) shall be appropriated to the several incorporated municipalities within the state of Tennessee and shall be allocated and distributed in the manner prescribed in § 67-6-103(a)(3)(A). Cities and counties shall also be subject to the provisions of § 67-6-103(a)(3)(C). For the fiscal year beginning July 1, 2000, the total distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%). For fiscal years beginning July 1, 2001, and thereafter, the total distribution shall be adjusted by an amount equal to the percentage change in the tax collections from the tax levied in Section 47 from the preceding fiscal year to the next preceding year. This allocation shall be distributed in twelve (12) equal monthly payments each year. Before distributions provided for in this subsection, the commissioner of finance and administration shall make a deduction of a sum equal to one percent (1.0%) of the monthly allocation. This amount shall be apportioned and transmitted to the University of Tennessee in the manner prescribed in §67-6-103(a)(3)(E).

(6) For the fiscal year beginning July 1, 1999, the amount of three million, three hundred fifty-one thousand, seven hundred dollars (\$3,351,700) shall be appropriated to the state sinking fund account to be used by the state funding board for payment of interest and principal. For the fiscal year beginning July 1, 2000, the distribution shall be the amount made for the prior fiscal year increased by four and one-half percent (4.5%). For fiscal years beginning July 1, 2001, and thereafter, the distribution shall be adjusted by an amount equal to the percentage change in the tax collections from the tax levied in Section 47 from

the preceding fiscal year to the next preceding year. This allocation shall be distributed in twelve (12) equal monthly payments each year.

(7) An amount equal to 0.000872% of the tax levied in Section 47 shall be distributed to the department of revenue as an administrative fee.

(8) All remaining amounts of such revenue shall be distributed next so that in the 1999-2000 fiscal year and thereafter, each municipality and county shall receive in addition to the revenues allocated to such municipality and county under the provisions of Tennessee Code Annotated, Section 67-6-103, an additional sum equal to the amount which would have been received pursuant to such section if the state sales and use tax rate had not been reduced by the provisions of this act. Such revenues shall be allocated and distributed in the same manner and at the same time as other sales and use tax revenues are distributed by the state.

(9) All remaining amounts of such revenue shall be distributed to the general fund.

SECTION 68. If Section 47 of this act is held to be invalid and unconstitutional, then all the provisions and applications of this act are declared to be invalid and void. If any other provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 69. For purposes of adoption of rules and design of forms, this act shall take effect upon becoming a law, the public welfare requiring it; for purposes of employer registration pursuant to Section 55, this act shall take effect on July 1, 1999, the public welfare requiring it; and for all other purposes, this act shall take effect January 1, 2000.

